APPENDIX

PETITION FOR DECLARATORY JUDGMENT

The Honorable, The Judges of Said Court:

The Petition of The Maryland Petition Committee, a membership corporation; Zelner Albritton, individually and taxpayer and grandfather, custodian and next friend of Ellenda L. Albritton, infant; Peter T. Dodson, individually and taxpayer and father and next friend of William T. Dodson, infant; Marland W. Duvall, individually and taxpayer and father and next friend of Bryan M. Duvall, infant; William M. Brailsford, individually and taxpayer and father and next friend of Edward B. and Kathryn Ann Brailsford, infants; and Alice J. Barksdale, individually and mother and next friend of Christine G. Barksdale and Margo C. Barksdale, infants, for declaratory judgment, respectfully represents unto Your Honor:

THAT the Maryland Petition Committee is a membership corporation, incorporated under the Laws of the State of Maryland, for the purpose of protecting its members and other like-minded citizens and people in like or similar situations, circumstances and conditions in their rights and privileges under the Constitution of the United States and the State of Maryland, whose address is P. O. Box 1631, Annapolis, Maryland.

THAT the individuals, Zelner Albritton, Peter T. Dodson, Marland W. Duvall, William M. Brailsford and Alice J. Barksdale are all citizens of the United States and registered voters of the State of Maryland. Among other things they are also parents or custodians and next friends of students attending the Public Schools of the State of Maryland.

I.

1. That during relatively recent years, your Petitioners have believed, and now do believe, and therefore do allege, that there have been various invasions of the rights and

reserved powers of the State of Maryland and of the rights of your Petitioners, and of the other citizens and States of the Union, by the Supreme Court, the Congress and the Executive Departments of the United States, predicated upon and citing the power and authority alleged to be contained in the Fourteenth Amendment to the Constitution of the United States in support of and authorizing said and other such actions as have been taken and done, with the aforesaid result, and the *pro tanto* destruction of our much cherished Federal System of government, which, while being praised by lip service, is being destroyed, in fact, by degrees by such as, among others, the School and the Reapportionment cases, and such actions, and there is now every reason to expect that the said Court and Congress and Departments of the Federal Government will continue the present course in their work in the future, under the alleged authority and power of the said Fourteenth Amendment, and by such as the so-called Civil Rights acts, and Executive orders, which will, either directly or indirectly, make the States mere tributaries to, rather than recognizing them as constituent members of the United States, thus grieviously exercising the power of a Procrustes, with a Gargantuan appetite, over the States and people, as aforesaid, and which are expected to continue during an unpredictable and unfathomable future, as aforesaid, which will mean the total absorption of the States and the consolidation of all powers of government in one massive and overpowering government, by both direct and indirect methods and practices, such as using Federal funds in the light of *Wickard* v. *Filburn*, 317 U. S. 111, and thereby virtually destroying the venerated Constitution, thus emphasizing the over-weaning importance of this proceeding and the great damage to the citizens and the States of the Union; and

4. That, as aforesaid, these usurpative and destructive acts have been predicated upon the alleged all-inclusive authority contained in the said Fourteenth Amendment, thereby proceeding upon the supposition and assumption that the said Amendment is a true and valid part of the

organic instrument of our Government, the Constitution of the United States, as will appear from the photostatic copy of proclamation of the Secretary of State attached hereto, marked "Petitioners' Exhibit No. 1" which, as a matter of fact and constitutional authority, is not legally true, as the said Amendment was never proposed by the Congress, it is believed and therefore alleged, as required by the said Constitution, because the House of Representatives of that (Rump) Congress of 1866 was composed of at least 184 members, and the vote was only 120 for the "proposal" thereof, which did not represent two-thirds "of both Houses," as required by Article V of the Constiution, as will appear from the photostatic copy of "Congressional Globe" of 1866, page 3149, attached hereto and marked "Petitioners' Exhibit No. 2".

5. That the said Article V provides, as aforesaid, that "The Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution;". That two-thirds "of both Houses" are required to propose an amendment, which negatives any right to propose amendments, an extra-curricular and extraordinary power of the Congress, by two-thirds "present," and to further support this interpretation of the said Amendment, your Petitioners refer to other pertinent and controlling parts of the Constitution, to *wit*:

A. That in connection with Impeachment it is provided that "**** No Person shall be convicted without the concurrence of two-thirds of the Members present." (Section 3 of Article I), and in this connection the Senate acts alone.

B. The language by which the President was given power to make treaties is as follows: "He shall have power, by and with the advice and consent of the Senate to make treaties, provided two-thirds of the Senators *present* concur." (Section 2 of Article II), and also in this connection the Senate acts alone; and

C. In providing for the recording in the Journal of the Yea and Nay votes, it is said that, "the Yeas and Nays of the Members of either House on any question shall, at the Desire of one-fifth of those present, be entered on the Journal," and if the word "present" had been omitted the vote required would have been one-fifth of the majority, as it is provided that "a Majority of each shall constitute a quorum to do business," meaning the regular and ordinary business of the Congress (Section 5 of Article II), and when more than two-thirds of those present was required, the word "Present" was not included; and

D. That the Founding Fathers were familiar with the use of the words "present" and "majority" and used them intelligently and discriminately to express their purpose and meaning is shown by their use in the Debates in the Constitutional Convention, as shown by Madison's notes in the Congressional Library as appearing in the volume edited by E. H. Scott at pages 453 and 72, the former dealing with Presidential vetos, and the latter dealing with admission of new States, a copy of which pages are attached hereto and marked "Petitioners' Exhibit No. 3"; and

E. That another evidence that amending the Constitution is not ordinary legislation, as provided for in Section Seven of Article I, but is extra-curricular in character, is the fact that Presidents are not authorized or required to in any way participate in amending the Constitution; and

F. That so, as was alleged, when it came to the proposing of amendments, the word "present" being absent, the only natural, legal and reasonable conclusion to be made from this conscious difference is, as aforesaid, that the vote required was "*two-thirds* of both Houses," thus showing the discernment and discrimination of the Founding Fathers in forming our fundamental and organic law; that any other construction would throw discredit on the Founding Fathers as, if there was no other direction or indication, two-thirds of both Houses would

have been controlling in the ordinary and regular course of all Government business, and it is believed and therefore alleged that the maxim *expressio unius est exclusio alterius* is the only rational and ruling guide to a fair and just interpretation of said Article V.

II.

1. That it is equally clear for another reason, as the Fourteenth Amendment is not constitutionally a part of the Constitution, as appears upon the face of the Public Records of the United States Government, that the Congress ignored the vote and action of seven Southern States which they had received into the Union subsequent to the official end of the Civil War, *namely,* Virginia, Louisiana, Arkansas, Tennessee, South Carolina, Alabama, North Carolina and Georgia, in that they had previously accepted the officially necessary vote of said States for the Thirteenth Amendment, without which that Amendment could not have been promulgated, as appears from the ratification thereof by the Proclamation of the Secretary of State (Seward) on the 10th of December, 1865, as appears from the photostatic copy thereof attached hereto and made a part hereof, and marked "Petitioners' Exhibit No. 4," and by a Letter to the attorney for the Petitioners hereto attached and marked "Petitioners' Exhibit No. 5," and by a Resolution of the Congress it was provided that no vote of said States would be received or recognized until the Fourteenth Amendment had been ratified by it, thus playing Dr. Jeykll and Mr. Hyde with the States, and sleight of hand with the Federal government; and

2. That, *inter alia,* the said Proclamation states that, "in all, twenty-seven States" had reported approval of said Amendment, and whereas the *"whole number of States in the United States is thirty-six,"* (emphasis supplied), and whereas, they "constitute three-fourths of the whole number of States," the same was declared to be "a part of the Constitution of the United States."; yet and notwithstanding this, their vote was ignored within a year in

connection with the proposal of the Fourteenth Amendment; and

3. That, in connection with the vote to ratify the Fourteenth Amendment, the vote of all the said *seven Southern States* was rejected, thus leaving twenty-one States voting on the Amendment, which did not constitute three-fourths of the States to whom the said Amendment had been officially sent, as illustrated by the attached copy of the transmittal paper from the said Secretary of State to the Governor of Maine, filed herewith and made a part hereof, and marked "Petitioners' Exhibit No. 6"; and

4. That, further, while the States of Ohio and New Jersey at first (January 15, 1867 and March 5, 1867, respectively) voted to ratify the said Amendment, each of these States later voted to withdraw said approval and voted to reject the Amendment, as appears from the Proclamation of the Secretary of State, which was before the ratification allegedly became final; that the favorable vote of the first of the Southern and rejected States was not received until April and June, 1868 and the other States thereafter, the last being on February 18, 1870, as will appear from the copy of the Proclamation attached hereto and marked "Petitioners' Exhibit No. 1"; and

5. Thus, these pertinent and controlling parts of the Constitution invoke, aside from common sense and reason, in order to properly interpret the same, the maxim *expressio unius est exclusio alterius,* and it is clear that when the much praised and applauded Founding Fathers meant "present" to control, they, in their wisdom, experience and knowledge, expressly said so, and when they meant otherwise, they omitted the use of the word "present," and this clearly shows and irrefutably demonstrates, on the face of the Record, that said Amendment was not proposed as demanded by and on the face of the Constitution, nor was it legitimately and constitutionally ratified on account of the juggling of the States as above set forth, and therefore, the decision in the case of *Brown* v. *The Board of Education,* 297 U. S. 489 and the Reapportionment cases were without constitutionality, and

all the acts of Congress and the Executive Department of the Government that were done under the authority of that Amendment were, and are, null and void and of no effect.

III.

1. That the Amendment is so broad that we are literally living under a government of men rather than Constitutional law, notwithstanding our perennial boast that it is a government of law and not of men.

WHEREFORE, your Petitioners pray:

A. That this Honorable Court declare the said Fourteenth Amendment null and void and of no effect for the reasons above presented by your Petitioners, and enjoin the further enforcement of any of its provisions; and

B. For such other and further relief as the exigencies of their case may require.